

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #4	CCRB Case #: 201706511	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/05/2017 12:30 AM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 2/5/2019	EO SOL 2/5/2019	
Date/Time CV Reported Sat, 08/05/2017 2:56 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/09/2017 2:41 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Perfetto	03325	949473	121 PCT
2. LT Janelle Famularo	00000	922424	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Francis Torres	01622	961383	121 PCT
2. POM John Pignatelli	06641	959075	121 PCT
3. POM Wassim Abouabdallah	00952	960119	121 PCT
4. POM Ronald Lam	06032	958787	121 PCT
5. CPT Anthony Bentivegna	00000	878931	PBSI

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Perfetto	Abuse: Police Officer Joseph Perfetto stopped § 87(2)(b)	§ 87(2)(b)
B.POM Joseph Perfetto	Force: Police Officer Joseph Perfetto used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Joseph Perfetto	Abuse: Police Officer Joseph Perfetto threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.LT Janelle Famularo	Abuse: Lieutenant Janelle Famularo threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 5, 2017, § 87(2)(b) filed this complaint with IAB by phone. On August 9, 2017, the case was referred to the CCRB.

On August 5, 2017, at approximately 2 a.m., at § 87(2)(b) in Staten Island, PO Joseph Perfetto stopped § 87(2)(b) and used physical force against him to do so (**Allegation A: Abuse of Authority, § 87(2)(g)** **Allegation B: Force, § 87(2)(g)** PO Perfetto and Lt. Janelle Famularo both threatened to arrest § 87(2)(b) (**Allegation C and D: Abuse of Authority: § 87(2)(g)** § 87(2)(b) was issued a § 87(2)(b) summons for acting violently and engaging in threatening behavior. The owner of the restaurant, § 87(2)(b) also received two summonses for § 87(2)(b). No other summonses or arrests resulted from this incident.

Portions of the incident were posted by witnesses on Snapchat (BR05) and were also captured on TARU cameras located in front of the restaurant (BR06). These videos do not depict the allegations.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Joseph Perfetto stopped § 87(2)(b)

Allegation (B) Force: Police Officer Joseph Perfetto used physical force against § 87(2)(b)

§ 87(2)(g)
§ 87(2)(g)

On August 4, 2017, at approximately 11:50 p.m., § 87(2)(b) (BR01) met two of his friends, § 87(2)(b) and a male individual only identified as § 87(2)(b) at § 87(2)(b), located at § 87(2)(b) in Staten Island. § 87(2)(b) was dressed in black khaki pants, a blue American Eagle V-neck shirt, and black and white sneakers.

The restaurant has two sections: the main restaurant and bar area, and a back patio. There are two tall walls on each side of the patio and behind the patio is a five to six foot-high wooden fence. Both the main restaurant and the back patio can only be accessed through the main door of the restaurant.

§ 87(2)(b) and his friends got a table on the back patio. There were approximately 15 to 20 people on the back patio, none of whom § 87(2)(b) knew, and the majority of whom smoked hookah and had drinks. § 87(2)(b) did not drink prior to coming to § 87(2)(b) and consumed only one drink while there.

Approximately 25 minutes later, a friend of § 87(2)(b) § 87(2)(b) arrived and joined the three friends at their table. § 87(2)(b) went inside the restaurant and bought a second set of drinks for himself, § 87(2)(b) and § 87(2)(b). When he returned, § 87(2)(b) and § 87(2)(b) got up and said they were going to the bathroom. § 87(2)(b) placed the drinks on the table and returned to his seat. § 87(2)(b) had at this point gotten up and was interacting with the other individuals at the bar.

A few minutes later, § 87(2)(b) heard loud screaming and noise coming from the main restaurant. § 87(2)(b) did not recall what was being yelled, but he distinctively heard female voices repeatedly screaming, "Oh my God, what's going on?" § 87(2)(b)

assumed a fight had broken out somewhere inside the restaurant, though he did not see this. § 87(2)(b) remained in his seat and waited for his friends to return.

Approximately one minute later, § 87(2)(b) saw people running towards the back patio fence. Within two minutes, approximately nine male individuals jumped over the fence, which led to a narrow alleyway. § 87(2)(b) did not know why the males jumped over the fence. He could not describe any of the males, but said they bore no resemblance to him.

Upon seeing the males jump over the fence, § 87(2)(b) panicked and feared his life was in danger. Thus, he also ran and jumped over the fence. Once § 87(2)(b) landed on the other side of the fence, he felt a hand grab his right shoulder. The grip on § 87(2)(b)'s shoulder was very loose, so that he could have freed himself and run, but instead he turned and saw a plainclothes officer, identified by the investigation as PO Joseph Perfetto. § 87(2)(b) did not know why PO Perfetto grabbed his shoulder and denied pushing or interacting with PO Perfetto or any other officer prior to jumping over the fence.

§ 87(2)(b) asked PO Perfetto if he was an officer. PO Perfetto said yes and told § 87(2)(b) that he had been caught. § 87(2)(b) said to PO Perfetto, "What do you mean you caught me? I'm just glad it's a cop." § 87(2)(b) then told PO Perfetto that he was coming over the fence and PO Perfetto said okay. PO Perfetto never instructed § 87(2)(b) to return over the fence. § 87(2)(b) hopped on the fence and brought his right leg to the side of the fence where PO Perfetto stood. PO Perfetto still held onto § 87(2)(b)'s shoulder as he climbed over the fence.

As § 87(2)(b) brought his left foot over to the other side of the fence, PO Perfetto pulled § 87(2)(b)'s right shoulder, so that he immediately fell to the ground. § 87(2)(b) scraped his body against the fence, which caused cuts and bruises on both his elbows and shoulders (BR02-04). § 87(2)(b) also hit his head against the concrete floor as he fell, but did not sustain any injuries from this.

Approximately three to four uniformed officers then surrounded § 87(2)(b) and placed him in handcuffs. § 87(2)(b) did not know why he was placed in handcuffs, nor did he physically resist the officers or act aggressively towards them. The officers then picked § 87(2)(b) up from the ground. § 87(2)(b) told one of the officers, identified as PO John Pignatelli, that he was § 87(2)(b) and that he did nothing wrong. PO Pignatelli told § 87(2)(b) to calm down and that the officers were only going to ask him a few questions. PO Pignatelli did not inform § 87(2)(b) of the nature of the investigation. § 87(2)(b) did not ask whether or not he was under arrest.

Some of the restaurant's customers, including § 87(2)(b) and § 87(2)(b) gathered on the patio and told the officers that § 87(2)(b) was not the individual they were looking for. § 87(2)(b) did not recall how many individuals gathered on the patio. § 87(2)(b) did not recall the exact number of officers on the patio, but said there were approximately 30 officers in total at the location. One of the officers, Lt. Janelle Famularo, instructed the crowd to move back, after which she instructed the officers to bring § 87(2)(b) to the front of the restaurant. Two officers, whom § 87(2)(b) could not describe, picked him up and walked him to the front of the restaurant.

§ 87(2)(b) never requested medical attention while at the scene, nor did officers offer it to him. He subsequently on his own sought medical attention at § 87(2)(b) in Staten Island.

§ 87(2)(b)'s medical records (BR10) indicate that he arrived at § 87(2)(b) at § 87(2)(b). § 87(2)(b) reported injuries to his left

arm, which he sustained after jumping over a fence during an interaction with the police. § 87(2)(b) was diagnosed with a contusion and abrasions over his left arm. § 87(2)(b) was given a tetanus shot on his left shoulder and was not prescribed any medication. § 87(2)(b) was discharged home in a stable condition at 5:41 a.m.

§ 87(2)(b) (BR07), § 87(2)(b) (BR08-09), and § 87(2)(b) (BR18) provided phone statements, but each missed two scheduled CCRB interview appointments. As such, sworn statements could not be obtained from them.

§ 87(2)(g) When § 87(2)(b) returned to the patio, she saw § 87(2)(b) who was on the other side of the fence, climbing the fence and returning to the patio. § 87(2)(b) did not know how § 87(2)(b) came to be on the other side of the fence, nor did she know why he was on the other side of the fence. § 87(2)(b) did not recall whether or not § 87(2)(b) was intoxicated, nor did she recall how many drinks he had that night.

There were approximately four uniformed officers, none of whom § 87(2)(b) could describe, standing by the fence. They appeared to be speaking to § 87(2)(b) though § 87(2)(b) did not hear what was said. As § 87(2)(b) returned to the patio side of the fence, one of the officers grabbed his shirt and pulled him to the ground. § 87(2)(b) never resisted or acted aggressively towards the officers. § 87(2)(b) hit his arm against the spikes of the fence, sustaining cuts and bruises to his arm.

§ 87(2)(b) and approximately 15 to 20 other civilians on the patio yelled and told the officers that § 87(2)(b) did nothing wrong and that he was not the person the officers were looking for. One of the officers, who § 87(2)(b) could not describe, instructed the crowd to move back, and also explained that officers only saw § 87(2)(b) jump over the fence. Thus, § 87(2)(b) was going to be detained until officers determined he was not the person they were looking for. The officers picked § 87(2)(b) up, placed him in handcuffs, and brought him to the front of the building.

§ 87(2)(g) § 87(2)(b) said that she and § 87(2)(b) were sitting at their table on the back patio when suddenly an unidentified black male ran onto the patio with his hand tucked into his shirt as if he had a weapon. Less than a minute later, PO Perfetto also ran into the backyard and apprehended the unidentified male and placed him against one of the walls of the restaurant. The unidentified male, however, managed to free himself from PO Perfetto's grip, ran towards the back of the patio, and jumped over the approximately six foot-high fence. § 87(2)(b) did not know the unidentified male. § 87(2)(b) did not recall where § 87(2)(b) and § 87(2)(b) were at this time.

Approximately six uniformed police officers entered the patio just as the unidentified male jumped over the fence. The presence of the officers caused everyone in the backyard to panic, and some of them jumped over the fence. § 87(2)(b) did not know how many individuals jumped over the fence. § 87(2)(b) who was possibly intoxicated, also panicked and attempted to jump over the fence, but got stuck midway. § 87(2)(b) did not recall how many drinks § 87(2)(b) had that night and said she "only felt that he might have had too many drinks." PO Perfetto and some of the officers instructed § 87(2)(b) to come off the fence. § 87(2)(b) said okay and attempted to descend from the fence, but the officers grabbed both his arms and legs and threw him to the ground. § 87(2)(b) scraped his arm against the concrete and sustained bruises on his arms. The officers then placed

§ 87(2)(b) in handcuffs and brought him to the front of the restaurant. § 87(2)(b) did not at any point resist the officers or act aggressively towards them.

§ 87(2)(b) (BR08-09) said he was inside the restaurant serving his customers when suddenly an unknown male individual ran into the restaurant heading towards the back patio. § 87(2)(b) could not describe this male, except that he was black. There were approximately 50 to 65 individuals at the bar, the majority of whom were on the back patio.

Less than a minute later, multiple officers dressed in plainclothes and uniforms entered the bar, apparently chasing after the unidentified male. The disc jockey, whom § 87(2)(b) only described as § 87(2)(b), yelled over the microphone, "Close the door." § 87(2)(b) did not know why § 87(2)(b) asked that the door be closed, but assumed § 87(2)(b) did not want the unidentified male to exit into the patio. The unidentified male and the officers entered the patio before anyone had the chance to close the door.

§ 87(2)(b) did not know what happened when the male and the officers entered the patio, but subsequently found from one of his customers that everyone in the backyard panicked and started to run upon noticing the officers, and that the unidentified male who ran into the restaurant jumped over the fence and fled the location. § 87(2)(b) did not know why his customers fled, except that it is "instinctive for black people to run away from the police." The majority of the customers ran towards the main entrance of the restaurant.

§ 87(2)(b) spoke to Lt. Kevin Byrnes and some officers inside the restaurant, but did not recall what was discussed. § 87(2)(b) and the officers then went to the patio. § 87(2)(b) saw that the officers on the patio had apprehended one of his customers, identified as § 87(2)(b) who was flat on the ground and was less than a foot away from the fence. The officers dragged § 87(2)(b) while he lay on the floor and placed him in handcuffs. § 87(2)(b) did not know how § 87(2)(b) came to be on the ground, but subsequently found out from one of his customers, whose name he did not know, that officers had pulled § 87(2)(b) off the fence after he tried to climb over the fence. § 87(2)(b) also did not know whether or not § 87(2)(b) resisted the officers, nor was he able to describe how the officers dragged § 87(2)(b) while on the floor. § 87(2)(b) did not know whether or not § 87(2)(b) sustained any injuries.

The Snapchat and TARU footage of the incident does not capture any of the allegations (BR05-06).

PO Perfetto (BR13) said that on August 5, 2017, at approximately 2 a.m., he and his partner, PO John Murphy, received a radio call regarding a dispute with a firearm in front of § 87(2)(b). The radio call indicated that the individual with the firearm was a black male who was dressed in red clothing.

PO Perfetto and PO Murphy arrived at the location within one minute and were the first set of officers at the location. PO Murphy and PO Perfetto saw a male black dressed in all red standing in front of the bar with an open alcoholic container. PO Perfetto, who was seated in the passenger seat of the unmarked vehicle, exited and said to the male something to the effect of, "Police, stop." The male quickly ran into the bar and headed towards the back patio. PO Perfetto immediately chased after the male.

The restaurant was very crowded and there were approximately 80 people on the patio, the majority of whom were drinking and standing. PO Perfetto grabbed the shirt of the

unidentified male and pinned him against the entrance door of the patio. The male then immediately threw a clear Ziploc bag containing a white substance into the crowd. PO Perfetto did not know what was in the bag, but believed the white substance was possibly cocaine. The bag was never recovered from the location.

PO Perfetto attempted to place the male in handcuffs, but the male actively resisted and repeatedly tried to reach for his waist band. PO Perfetto was the only officer with the male and did not know where PO Murphy was. As PO Perfetto tried to place the unidentified male in handcuffs, § 87(2)(b) yelled into the microphone, “Fuck this motherfucker. Lock the door.” PO Perfetto did not know why § 87(2)(b) made that statement, nor did he know whether or not the door was ever closed.

A crowd almost immediately began to form around PO Perfetto and the male. PO Perfetto did not recall how many individuals were in the crowd, but said they were yelling, though he did not recall what they said. The crowd stood approximately six to eight feet away from PO Perfetto and the male. PO Perfetto did not recall whether or not he identified himself as a police officer or if he issued the civilians any commands, but said his shield visibly hung around his neck.

The unidentified male managed to free himself from PO Perfetto’s grip and ran into the crowd. PO Perfetto chased after the male and attempted to apprehend the male, who was approximately 10 feet away from him, but § 87(2)(b) “jumped out” from the crowd and stood in front of PO Perfetto, blocking his path. § 87(2)(b) then pushed PO Perfetto on his chest, causing him to take one step back, though he did not fall. PO Perfetto did not know why § 87(2)(b) pushed him, nor did he know whether or not § 87(2)(b) knew the unidentified male. He also did not know whether or not § 87(2)(b) was intoxicated.

PO Perfetto ignored § 87(2)(b) and focused on apprehending the unidentified male, but the male jumped the fence and fled the location through a narrow alleyway behind the fence. Just about the same time, multiple uniformed officers, none of whose names PO Perfetto recalled, entered the patio. PO Perfetto did not recall how many officers were on the patio. § 87(2)(b) apparently in reaction to the arrival of further police officers also jumped over the fence, but PO Perfetto reached his hands over the fence and grabbed onto § 87(2)(b)’s shirt. PO Perfetto’s arm made contact with the spikes on the fence, causing minor scratch marks on his arm. PO Perfetto noticed the scratch marks after the incident and did not seek medical attention. PO Perfetto grabbed onto § 87(2)(b)’s shirt because he considered him to be under arrest for disorderly conduct and obstruction of governmental administration because he pushed PO Perfetto, which allowed the unidentified male to escape.

Two of the uniformed officers, PO Francis Torres and PO John Pignatelli, jumped over the fence and secured § 87(2)(b). PO Perfetto then let go of § 87(2)(b)’s shirt. He moved away from the fence and spoke to Lt. Janelle Famularo, who had just arrived to the patio, though he did not recall what they spoke about. PO Perfetto heard the officers instructing § 87(2)(b) multiple times to return to the patio, but did not recall § 87(2)(b)’s response to the officers’ commands.

At some point, § 87(2)(b) came back over the fence and returned to the patio. PO Perfetto did not see how § 87(2)(b) came over the fence, but believed the uniformed officers might have assisted him. PO Perfetto did not see § 87(2)(b) fall when he came over the fence, nor did he see or hear him complain of any injuries. PO Perfetto left the patio after § 87(2)(b) came over the fence and assisted with the search of the unidentified male. He thus did not know what happened to § 87(2)(b) after he came off

the fence and denied pulling him off the fence. He also did not see any other officer pull him off the fence. PO Perfetto did not see PO Murphy on the patio during his interaction with § 87(2)(b).

§ 87(2)(b) § 87(2)(g) PO Torres said when he and his partner, PO Ronald Lam, arrived at the location, he saw PO Perfetto chasing after two black males who had run into the restaurant. PO Torres did not know why PO Perfetto was pursuing the two males, but assumed that they were possibly the individuals alleged to have a firearm. PO Torres also ran into the restaurant and followed PO Perfetto and the two males into the back patio.

One of the males jumped over a chain link fence near the back patio and fled the scene through a narrow alleyway that was behind the fence. PO Perfetto grabbed the second male, later identified by PO Torres as § 87(2)(b) immediately he jumped the fence and landed on the other side. PO Torres did not recall which part of § 87(2)(b)'s body PO Perfetto grabbed. PO Torres did not see § 87(2)(b) push PO Perfetto or any other officer, nor did it subsequently come to his knowledge that § 87(2)(b) had pushed an officer. PO Torres also did not recall where PO Lam was, but said at some point multiple officers, none of whose names he recalled, except that of PO John Pignatelli, arrived on the patio.

PO Perfetto instructed § 87(2)(b) approximately over five times to return to the patio, but § 87(2)(b) seemed "absorbed in his own thought" and did not respond or comply with the officer's commands. § 87(2)(b) did not appear intoxicated and understood PO Perfetto's commands. PO Pignatelli and PO Torres jumped over the fence and stood on each side of the § 87(2)(b). The officers jumped over the fence because they did not want § 87(2)(b) to flee. PO Torres did not recall whether or not PO Perfetto still held onto § 87(2)(b) after the officers jumped over the fence.

PO Torres and PO Pignatelli each instructed § 87(2)(b) approximately more than five times to return back to the patio. Each time, § 87(2)(b) held onto the fence and said he was unable to climb the fence because it was too tall. PO Torres informed § 87(2)(b) that he and PO Pignatelli were going to assist him over the fence. PO Torres and PO Pignatelli bent down and raised each of § 87(2)(b)'s legs approximately four to five feet off the ground so he could support himself over the fence.

§ 87(2)(b) tumbled and fell to the ground as he came over the fence. PO Torres did not know how § 87(2)(b) came to be on the ground, nor did he know whether or not § 87(2)(b) was assisted by any of the officers on the patio. PO Torres did not see PO Perfetto or any other officer pull § 87(2)(b) off the fence. PO Torres did not know whether or not § 87(2)(b) sustained any injuries, nor did he hear § 87(2)(b) complain of any injuries. Once § 87(2)(b) was over the fence, PO Torres exited through the narrow alleyway, returned to the front of the restaurant, and had no subsequent interaction with § 87(2)(b). PO Torres did not sustain any injuries as a result of the incident, but said PO Pignatelli sustained minor cuts on his arm, though he did not know how PO Pignatelli sustained those injuries.

PO Lam (BR17) said when he and PO Torres arrived at the scene, they received another radio call that the alleged perpetrator had hopped over the fence and was heading towards Beekman Street. PO Lam and PO Murphy ran towards Beekman Street and searched for the male, who had hopped over the fence. PO Lam and PO Murphy never went into the patio and did not know what happened to § 87(2)(b) though a few minutes later, he saw § 87(2)(b) in front of the restaurant in handcuffs. PO Lam did not know why § 87(2)(b)

§ 87(2)(b) was stopped, nor did it subsequently come to his attention that any form of force was used against § 87(2)(b).

PO Pignatelli (BR14) corroborated PO Torres' account, adding that when he and PO Wassim Abouabdallah arrived on the patio, PO Perfetto had his hand over the fence and was holding onto the shirt of § 87(2)(b) who was on the other side of the fence. PO Pignatelli did not know why PO Perfetto had stopped § 87(2)(b) nor did it subsequently come to his knowledge that § 87(2)(b) had pushed PO Perfetto or any other officer.

PO Torres and PO Pignatelli jumped over the fence and slightly raised § 87(2)(b)'s feet off the ground to the point that his chin was above the fence and he could support himself over the fence. Less than a minute later, § 87(2)(b) went over the fence and returned to the patio. PO Pignatelli jumped over the fence again and returned to the patio. PO Pignatelli saw § 87(2)(b) on the floor surrounded by multiple officers, none of whom PO Pignatelli could identify. PO Pignatelli did not know how § 87(2)(b) came to be on the ground, nor did he know whether or not § 87(2)(b) supported himself over the fence or if he was assisted. PO Pignatelli did not see PO Perfetto or any other officer pull § 87(2)(b) off the fence, nor did he hear § 87(2)(b) complain that he had been pulled off the fence.

PO Pignatelli and one of the officers, whose name PO Pignatelli did not recall, picked § 87(2)(b) up from the ground. § 87(2)(b) complained of headaches, but refused medical attention when PO Pignatelli offered to call EMS. PO Pignatelli did not observe any injuries on § 87(2)(b)'s body, nor did he hear § 87(2)(b) complain of any injuries. § 87(2)(b) was placed in handcuffs and brought to the front of the restaurant. PO Pignatelli subsequently after the incident noticed minor cuts and bruises on his arm, which he believed he sustained as a result of jumping over the fence. PO Pignatelli received medical attention at § 87(2)(b) and a Line of Duty report was prepared (BR21).

§ 87(2)(g) PO Abouabdallah said he held both of § 87(2)(b)'s hands after PO Torres and PO Pignatelli lifted him up, and gently guided him over the fence, but § 87(2)(b) tripped on the fence and fell to the ground. PO Abouabdallah held § 87(2)(b)'s hands because he did not want him to fall as he came over the fence and was also a precautionary measure to ensure officer safety, as the incident involved an individual with a weapon. PO Abouabdallah did not recall whether or not PO Perfetto or any other officer assisted him in bringing § 87(2)(b) over the fence, nor did he know what caused § 87(2)(b) to trip and fall. PO Abouabdallah denied pulling § 87(2)(b) over the fence and did not see any other officer do so.

PO Abouabdallah and another officer, whose name he did not recall, picked § 87(2)(b) up from the ground and asked if he needed medical attention, but § 87(2)(b) said no. PO Abouabdallah did not observe any injuries on § 87(2)(b)'s body, nor did he hear him complain of any injuries.

Lt. Famularo (BR19) said when she arrived on the patio, a large crowd of people had gathered around PO Perfetto, PO Pignatelli, and a third officer, who she believed was PO Lam. The officers were speaking to § 87(2)(b) who was on the other side of the fence. Lt. Famularo spoke to the officers briefly, though she did not recall what was discussed, and then focused her attention on the crowd and instructed them to move back.

While controlling the crowd, the majority of whom were yelling and recording, Lt. Famularo heard the officers instruct § 87(2)(b) approximately over 20 times to return over the fence, but § 87(2)(b) appeared not to comply with the officers' commands and was yelling, though Lt. Famularo did not know what he said. At some point, Lt. Famularo saw one of the officers, she did not recall which, jump over the fence and stood next to § 87(2)(b). Lt. Famularo did not know what the officer did after he jumped the fence nor did she see him assist § 87(2)(b) over the fence.

A few minutes later, Lt. Famularo noticed that § 87(2)(b) had returned to the patio and was on the ground. Lt. Famularo did not know how § 87(2)(b) came to be over the fence and on the ground, nor did she see any officer pull him off the fence. Lt. Famularo also did not hear § 87(2)(b) complain of any injuries, nor did she observe any injuries on his body. § 87(2)(b) was placed in handcuffs and Lt. Famularo instructed that he be brought to the front of the restaurant. PO Perfetto informed Lt. Famularo that § 87(2)(b) was under arrest for § 87(2)(b). Lt. Famularo did not recall what about § 87(2)(b)'s behavior constituted any of the charges PO Perfetto levied against him. Lt. Famularo did not see § 87(2)(b) push any officer, nor did she recall being subsequently informed that § 87(2)(b) had pushed an officer.

Lt. Famularo prepared Threat Resistance and Injury (TRI) reports for the incident (BR12). The report indicates that PO Perfetto grabbed § 87(2)(b)'s left shoulder, and that PO Pignatelli and PO Torres assisted § 87(2)(b) in climbing over the fence. The report includes pictures of § 87(2)(b)'s injuries and reflects that § 87(2)(b) fell over the fence and sustained minor lacerations. PO Pignatelli also sustained abrasions on his left forearm and left bicep.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Joseph Perfetto threatened to arrest

§ 87(2)(b)

Allegation (D) Abuse of Authority: Lieutenant Janelle Famularo threatened to arrest

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) (BR01) said two officers walked him out of the patio, brought him out of the restaurant, and sat him steps of the restaurant. PO Pignatelli asked § 87(2)(b) for his ID card. § 87(2)(b) turned to his body to his left and told PO Pignatelli that his ID was in his wallet, which was in his side left pocket. He then stretched his neck and indicated to PO Pignatelli which pocket his wallet was in. PO Pignatelli entered § 87(2)(b)'s side left pocket, obtained his wallet, and removed his ID card. PO Pignatelli returned the wallet into

§ 87(2)(b) s pocket and walked to a marked SUV that was parked a few feet from where § 87(2)(b) sat. PO Pignatelli did not enter any other parts of § 87(2)(b) s pockets, nor did § 87(2)(b) protest or have any complaints about PO Pignatelli entering his pocket; § 87(2)(g) § 87(2)(b) assumed officers checked his ID for warrants, though he did not see them do this.

At some point, Lt. Famularo, PO Perfetto, and five other officers, none of whom § 87(2)(b) could describe, approached § 87(2)(b) PO Perfetto told § 87(2)(b) that he was going to be issued a summons for § 87(2)(a) 160.50 § 87(2)(b) told PO Perfetto that he did not want the summons and that he did nothing wrong. PO Perfetto told him that if he did not receive the summons, he would be taken to the stationhouse and processed. § 87(2)(b) told PO Perfetto that he felt PO Perfetto was only issuing him the summons to “cover [officers’] backs, since they realized he was not who they were looking for,” and because they had used physical force against him though he was the wrong person. Lt. Famularo then said to § 87(2)(b) “if you don’t take the summons, we’ll take you in.” § 87(2)(b) and § 87(2)(b) interjected and told § 87(2)(b) to keep quiet and take the summons so they could all go home. § 87(2)(b) agreed to the summons and was released.

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) said that at some point after § 87(2)(b) was brought to the front of the restaurant, a group of officers surrounded him and informed him that he was going to be issued a summons. § 87(2)(b) refused to take the summons and said he did nothing wrong. One of the officers, who both § 87(2)(b) and § 87(2)(b) could not describe, told § 87(2)(b) that if he did not take the summons, he would be arrested and would be taken to jail. § 87(2)(b) again refused to take the summons and tried to explain to the officers why he had jumped over the fence. § 87(2)(b) told him to keep quiet and not interact with the officers, which he did. A few minutes later, § 87(2)(b) was released and handed a summons, which he accepted.

§ 87(2)(b) (BR08-09) did not see what happened to § 87(2)(b) after he was brought to the front of the building. § 87(2)(b) remained in the restaurant with Lt. Byrnes and a group of officers, and was issued two summonses for § 87(2)(b) § 87(2)(b) did not hear any officers threatening to arrest § 87(2)(b)

PO Perfetto (BR13) said he was primarily focused on finding the unidentified individual and assisted in the search of the unidentified individual and the alleged weapon. At some point, the search for the unidentified individual was terminated, as it was determined that the unidentified individual had successfully fled the location. No weapons were recovered from the location. PO Perfetto did not recall the exact duration of the search for the unidentified individual.

PO Perfetto then returned to the front of the restaurant and saw § 87(2)(b) on the steps of the restaurant and in handcuffs. An officer handed PO Perfetto § 87(2)(b) s ID card. PO Perfetto did not recall which officer handed him § 87(2)(b) s ID, nor did he know how the officer obtained it. PO Perfetto performed warrants and ICARD audits for § 87(2)(b) which were returned as negative. PO Perfetto thus decided to issue § 87(2)(b) a § 87(2)(a) 160.50 summons rather than arrest him. He informed § 87(2)(b) that he was going to receive a § 87(2)(a) 160.50 summons and explained to him the process of responding to the summons. PO Perfetto wrote § 87(2)(b) a § 87(2)(a) 160.50 summons for pushing him. He then removed § 87(2)(b) s handcuffs and handed him the summons. PO Perfetto did not recall whether or not § 87(2)(b)

protested or refused to take the summons, nor did he recall making statements about arresting § 87(2)(b) though § 87(2)(b) could have been arrested for disorderly conduct.

Lt. Famularo (BR19) said the incident was upgraded to a level one mobilization, given the size of the crowd at the location and the fact that the alleged individual with the weapon was still at large. She assisted the duty captain in coordinating the activities and assignments of all the officers at the location, and thus did not recall having any interaction with § 87(2)(b) except at one point when she told § 87(2)(b) to exercise patience after he had asked when he was going to be released. Lt. Famularo did not recall § 87(2)(b)'s demeanor, except that he appeared calmer once he was brought to the front of the building.

At some point, PO Perfetto informed Lt. Famularo that the warrants audit performed for § 87(2)(b) returned negative, thus he preferred to issue him a summons rather than arrest him. PO Perfetto also told Lt. Famularo that he wanted to issue § 87(2)(b) a summons because he believed an arrest could potentially jeopardize § 87(2)(b)'s employment § 87(2)(b). Lt. Famularo agreed with PO Perfetto and authorized him to issue the summons. Lt. Famularo did not recall whether or not § 87(2)(b) was close enough to hear her conversation with PO Perfetto. PO Perfetto issued § 87(2)(b) a disorderly conduct summons and he was released. § 87(2)(b) did not at any point refuse to take the summons, nor did Lt. Famularo at any point during the interaction threaten to arrest him, though § 87(2)(b) could have been arrested had he refused to accept the summons since the summons was being issued in lieu of an arrest.

An officer may arrest a civilian if they have reasonable cause to believe that person has committed an offence. In cases relating to petty offenses or traffic infractions, an officer may make an arrest or issue a summons. Patrol Guide Procedure 208-01 (BR20)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has one prior CCRB complaint (BR22):
 - § 87(2)(b)
- Lt. Famularo has been a member of service for 19 years and has five allegations stemming from three separate complaints, none of which was substantiated, § 87(2)(g)
- PO Perfetto has been a member of service for seven years and has four allegations stemming from two separate complaints, either of which was substantiated, § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- A FOIL request was sent to the NYC Comptroller on December 29, 2017, for any Notice of Claim filed in regards to this incident. The results of the request will be added to the case file upon receipt (BR23).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Squad Leader: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------